IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.21359-M of 2007
Date of Decision:- 02.07.2007

Sanjeev Sood ....Petitioner(s)

through
Mr.Atul Lakhanpal, Advocate

vs.

State of Punjab ....Respondent(s)

through
Mr.Rajesh Bhardwaj, DAG, Punjab.

Mr.P.K.Gupta, Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

The prayer in this petition is to release the petitioner on regular bail in case F.I.R.No.6 dated 3.1.2007 under Sections 336, 337 IPC and Sections 27/54/59 of the Arms Act registered at Police Station, Civil Lines, Amritsar in which now offence under Section 307 IPC is also stated to have been attributed.

As per the complainant's version, he along with his brother Surinder Singh had gone to the Courts at Amritsar in order to find out the fate of the bail application moved by the complainant's brother and

that while they were coming through the staircase, Roshan Lal son of Babu Ram raised a *Lalkara* whereupon Akhil Sood son of said Roshan Lal caught hold of the complainant's brother from hair and Sanjeev Sood (the petitioner herein) fired a shot from his licensed .32 bore revolver with an intention to kill his brother. However, the said shot hit on the lower abdomen near the right thigh of the complainant's brother. It is further alleged that when the complainant raised an alarm, the assailants fled away from the spot together with their respective weapons.

There is no denial to the fact that there is a property dispute between the parties and in relation thereto, F.I.R.No.170 dated 30.12.2006 under Sections 420, 465, 467, 468, 471, 120-B IPC was got registered at Police Station Chabal, District Tarn Taran by the petitioner against the complainant party. It appears that one of the accused in the aforesaid F.I.R. had applied for grant of anticipatory bail which was listed before Shri Vivek Puri, learned Additional Sessions Judge at Amritsar.

It is stated at the Bar that the said bail application was dismissed by the learned Additional Sessions Judge on the date of occurrence and when the complainant party, namely, the accused in the above-stated case, were coming from the Court, the present occurrence took place.

After investigation, the police has presented its report i.e. the challan under Section 173 Cr.P.C., a copy of which has been placed on record as Annexure P-1. The report reveals that the allegations made by the complainant were got investigated into twice and in both the enquiry reports, it was found that Roshan Lal Sood and his son Akhil Sood were not even present on the spot at the time of occurrence and they were allegedly

dragged by the complainant on the basis of false allegations. As regard to the petitioner, the enquiry conducted by the SSP (Headquarters), Amritsar on the basis of which the report under Section 173 Cr.P.C. was presented, reveals as follows:-

> "During the course of enquiry, statement of various persons were recorded, from which the following position emerges that after hearing of his case, Sanjiv Sood was coming downside through stair-case. Charanjit Singh and Surinder Singh sons of Daya Singh, residents of village Thathgarh met him in the court complex. Since both the parties were facing litigation against each other (sic), so they started abusing each other and a scuffle broke out between them. Then Sanjiv Sood fell down. Surinder Singh had caught hold Sanjiv Sood from his neck, whereupon, Sanjiv Sood in order to frighten him, pick out his licensed revolver from his dub and all of a sudden, a shot fired from the licensed revolver of Sanjiv Sood which hit on right thigh of Surinder Singh. Due to gun shot, a hue and cry spread in the court complex. On hearing the noise of gun shot, the police officials on duty in the Court complex, with the help of present gathering, nabbed Sanjiv Sood and handed him over to Sh.Tarsem Lal ASI, Incharge, Police Post Court Complex."

The afore-mentioned conclusion has again been reiterated by the Investigating Agency in the later part of its report under Section 173

Cr.P.C. concluding that the petitioner "had tried to make a fire in air out of fear and in order to save himself."

Learned State counsel does not dispute the afore-mentioned conclusion drawn by the Investigating Agency in its report under Section 173 Cr.P.C.

Learned counsel for the complainant, however, vehemently contends that the afore-mentioned conclusions are incorrect and a *prima-facie,* case under Section 307 IPC has already been made out against the petitioner.

The petitioner's stand, however, appears to the effect that (i) the shot was fired accidentally and/or (ii) the same was in self-defence. These pleas being pure questions of fact, would be gone into by the learned trial Court only after both the parties lead their respective evidence.

There is, however, no denial to the fact that an F.I.R. was earlier got registered by the petitioner against the complainant party and immediate before the present occurrence, one of the members of the complainant's party was denied anticipatory bail in the above-stated case.

The petitioner was arrested at the place of occurrence itself and is in custody for the last six months.

The conclusion of trial will take considerably long period. If the conclusions drawn by the Investigating Agency are to be believed, *Prima-facie,* only a bailable offence is made out against the petitioner.

Having heard learned counsel for the parties and for the reasons afore-stated, however, without going into merits of the allegations lest it should prejudice either of them, this petition is allowed. The petitioner is directed to be released on bail to the satisfaction of the Chief Judicial

Magistrate, Amritsar.

The observations made herein above shall have no bearing on the merits of the case.

July 02, 2007 **(SURYA KANT)**
poonam **JUDGE**